

**California Regional Water Quality Control Board
Santa Ana Region**

November 30, 2007

Item: 14

**Subject: Middle Santa Ana River Bacterial Indicator Total Maximum Daily Load (TMDL)
Task Force Agreement**

Discussion:

On August 26, 2005, the California Regional Water Quality Control Board, Santa Ana Region (Regional Board), adopted Resolution No. R8-2005-0001, amending the Water Quality Control Plan for the Santa Ana River Basin (Basin Plan). The amendment incorporates into Chapter 5, "Implementation" of the Basin Plan, bacterial indicator Total Maximum Daily Loads (TMDLs) for a number of waterbodies in the middle Santa Ana River watershed, including Mill Creek/Cucamonga Creek, Chino Creek, Prado Park Lake and Reach 3 of the Santa Ana River. The TMDLs were approved by the State Water Resources Control Board (State Water Board) on May 15, 2006 (Resolution No. 2006-0038) and the California Office of Administrative Law (OAL) on September 1, 2006. On May 16, 2007, the US Environmental Protection Agency, Region IX approved the Middle Santa Ana River Bacterial Indicator TMDLs. The purpose of the TMDLs is to ensure attainment of water quality standards (beneficial uses, water quality objectives and antidegradation policy) in the above referenced waterbodies, which are impaired due to levels of bacterial indicators that exceed applicable objectives.

The Middle Santa Ana River Bacterial Indicator TMDLs include specific requirements for the implementation of a bacterial indicator monitoring program and development of plans and schedules for management of bacteria inputs from specific sources, including urban runoff and agricultural runoff. The monitoring program requirements are the joint responsibility of all dischargers of bacterial indicators.

In order to implement the requirements of the Bacterial Indicator TMDLs, affected responsible agencies and stakeholders have formed a Middle Santa Ana River Watershed TMDL Task Force. Members of the Task Force include the following:

- ❖ US Forest Service
 - ❖ County of Riverside
 - ❖ San Bernardino County Flood Control District
 - ❖ Riverside County Flood Control and Water and Water Conservation District
 - ❖ City of Corona
 - ❖ City of Riverside
 - ❖ City of Norco
 - ❖ Santa Ana Watershed Project Authority
 - ❖ Chino Basin Watermaster Agricultural Pool
- (note: the Chino Basin Watermaster, representing agricultural owners/operators in the watershed, is a recent addition to the TMDL Task Force. Watermaster membership on the Task Force is not reflected in the attached Task Force agreement. It is expected that the Task Force Agreement will be amended at the earliest opportunity to formally add the Watermaster Agricultural Pool).

The Santa Ana Watershed Project Authority (SAWPA) will serve as the Task Force Administrator. It is proposed that the Regional Board would serve on the Task Force as an advisory member, with no voting authority or financial responsibility. Board staff have been actively working with stakeholders and the Task Force member agencies since TMDL development activities began in 2001. In addition, Task Force members have been very proactive in obtaining grant funds to fulfill specific TMDL implementation requirements. As an example, in June 2007, pursuant to Task 3 of the TMDLs, stakeholders submitted for Regional Board approval a proposed bacterial indicator monitoring program well in advance of the November 30, 2007 due date. The Regional Board subsequently approved the monitoring program on June 29, 2007 (Resolution No. R8-2007-0046).

By joining the Task Force and signing the agreement, the Board signals its commitment to the Task Force effort and TMDL implementation process. Staff participation in TMDL implementation activities is needed to ensure that efforts to reduce bacterial inputs continue. However, it should be emphasized that if the Regional Board becomes a Task Force member, there would not be any financial obligation of the Board to fund TMDL implementation studies or actions. Further, the Regional Board is not bound to implement any results or recommendations from the Task Force. Rather, the Board's signature would denote commitment to meaningful participation in the TMDL implementation process to ensure that all stakeholders are meeting the requirements of the Middle Santa Ana River Bacterial Indicator TMDLs.

Recommendation:

Staff recommends the adoption of Resolution No. R8-2007-0082, authorizing the Executive Officer to sign the Task Force Agreement on behalf of the Board. The Task Force Agreement is attached to Resolution No. R8-2007-0082. Further, adoption of the Resolution would delegate to the Executive Officer all functions under the Agreement, including any future amendments to the Agreement.

California Regional Water Quality Control Board
Santa Ana Region

Resolution No. R8-2007-0082

Authorizing the Signature of the Middle Santa Ana River Total Maximum Daily Load (TMDL) Task Force Agreement and Delegating Authority to the Executive Officer to Execute all Functions under the Agreement and to Consider Further Proposed Amendments to the Agreement

Whereas, the California Regional Water Quality Control Board, Santa Ana Region (hereinafter Regional Board) finds that:

1. The Middle Santa Ana River Bacterial Indicator TMDLs were approved by the Regional Water Quality Control Board (Regional Board) on August 25, 2005 (Resolution No. R8-2005-0001), the State Water Resources Control Board on May 15, 2006 (Resolution No. 2006-0038) and the California Office of Administrative Law (OAL) on September 1, 2006. On May 16, 2007, the US Environmental Protection Agency, Region IX approved the Middle Santa Ana River Bacterial Indicator TMDLs.
2. The US Forest Service, the County of Riverside, the Riverside County Flood Control and Water Conservation District, the San Bernardino County Flood Control District, the cities of Norco, Corona and Riverside, the Santa Ana Watershed Project Authority, and the Chino Basin Watermaster Agricultural Pool (representing concentrated animal feeding operators and agricultural operators within the Chino Basin) developed an Agreement to form the Middle Santa Ana River TMDL Task Force.
3. The purpose of the Task Force is to review and develop recommendations to update the Middle Santa Ana River Bacterial Indicator TMDLs based on additional science and data, and to plan and implement TMDL implementation tasks identified in the approved Middle Santa Ana River Bacterial Indicator TMDLs.
4. The Task Force Agreement contemplates that the Regional Board will participate on the Task Force and serve as an advisory member.
5. The Regional Board's representative would fully participate in Task Force meetings, but will have no voting rights except as to further amendments to the Agreement. Further, the Regional Board would have no obligation to make any financial contributions, or any financial obligations under the Agreement.
6. Regional Board participation as an advisory member of the TMDL Task Force would facilitate timely compliance with the TMDL requirements.
7. It is appropriate to delegate to the Executive Officer authority to execute all functions under the Agreement and any further proposed amendments to the Agreement.
8. The Regional Board Executive Officer's signature to the Task Force Agreement neither connotes nor denotes a commitment by the Regional Board to implement the results and recommendations of the Task Force studies regarding revisions to the Middle Santa Ana River Bacterial Indicator TMDLs or any future TMDLs. Rather, the Executive Officer's signature denotes commitment to meaningful participation in considering appropriate revisions to the TMDLs, developing appropriate strategies to address the impairment in Middle Santa Ana River watershed waterbodies and ensuring that all responsible

Tentative

dischargers participate in the TMDL implementation process. The Regional Board does not relinquish any rights or obligations as a result of its participation on the Task Force.

Now, Therefore, Be It Resolved That:

1. The Executive Officer is authorized to sign the Agreement to form the Middle Santa Ana River TMDL Task Force in substantially the same form as the document attached to this Resolution. The Executive Officer is authorized to accept and approve non-substantive changes to the Agreement.
2. The Regional Board authorizes the Executive Officer to perform all functions under the Agreement and to approve future necessary amendments to the Agreement consistent with this Resolution.

I, Gerard J. Thibeault, Executive Officer, do hereby certify that the foregoing is a full, true and correct copy of a resolution adopted by the California Regional Water Quality Control Board, Santa Ana Region, on November 30, 2007.

Gerard J. Thibeault
Executive Officer

IN WITNESS WHEREOF, the Parties have executed this Agreement entitled
"AGREEMENT TO FORM THE MIDDLE SANTA ANA RIVER WATERSHED TMDL TASK
FORCE"

**SANTA ANA REGIONAL WATER
QUALITY CONTROL BOARD**

BY _____ DATE _____
Gerard J. Thibeault
Executive Officer

APPROVED AS TO FORM

By _____
Erik Spiess
Legal Counsel

FINAL4/17/07

**AGREEMENT TO FORM
THE MIDDLE SANTA ANA RIVER WATERSHED
TMDL TASK FORCE**

This Agreement, is made this ____ day of _____, 2007, between the SAN BERNARDINO COUNTY FLOOD CONTROL DISTRICT ("SB FLOOD CONTROL"), the RIVERSIDE COUNTY FLOOD CONTROL AND WATER CONSERVATION DISTRICT ("RIVERSIDE FLOOD CONTROL"), the CITY OF CORONA ("CORONA"), CITY OF NORCO ("NORCO"), CITY OF RIVERSIDE, COUNTY OF RIVERSIDE, the SANTA ANA REGIONAL WATER QUALITY CONTROL BOARD ("REGIONAL BOARD"), the UNITED STATES DEPARTMENT OF AGRICULTURE, FOREST SERVICE ("FOREST SERVICE") and the SANTA ANA WATERSHED PROJECT AUTHORITY ("SAWPA"). SB FLOOD CONTROL, RIVERSIDE FLOOD CONTROL, CITIES of RIVERSIDE, CORONA and NORCO, COUNTY OF RIVERSIDE, REGIONAL BOARD, FOREST SERVICE and SAWPA are individually and collectively referred to herein as "PARTY" and "PARTIES" respectively.

RECITALS

This Agreement is entered into on the basis of the following facts, understandings, and intentions of the PARTIES:

A. SAWPA is a joint powers public agency, organized and existing pursuant to the laws of the State of California and that certain Joint Exercise of Powers Agreement ("JPA") dated January 1975, as amended, exercising powers common to its Member Agencies, which include Eastern Municipal Water District, Inland Empire Utilities Agency, Orange County Water District, San Bernardino Valley Municipal Water District, and Western Municipal Water District.

B. SAWPA's mission is to initiate and to assist its Member Agencies in cooperative programs and projects to improve and protect water quality, including planning, financing, and implementation; and to coordinate such programs and projects with federal, state, regional, and local agencies.

C. The Middle Santa Ana River Watershed (MSAR) is regulated by the REGIONAL BOARD, is within the Santa Ana River Watershed and within the jurisdictions of both the SB FLOOD CONTROL and RIVERSIDE FLOOD CONTROL.

D. The Reach 3 Santa Ana River Bacterial Indicator Total Maximum Daily Loads ("TMDL") for six MSAR Waterbodies were incorporated into the Water Quality Control Plan – Santa Ana River Basin ("BASIN PLAN") by Resolution No. R8-2005-0001, adopted by the "REGIONAL BOARD" on August 26, 2005.

E. The San Bernardino County Flood Control District, Orange County and Riverside County Flood Control and Water Conservation District formed the Storm Water Quality Standards Task Force ("Storm Water Task Force") to evaluate the REGIONAL BOARD's BASIN PLAN criteria for bacterial indicators and recreational beneficial use designations for waterbodies within the Santa Ana Watershed, including the MSAR.

F. The Storm Water Task Force will recommend several modifications to the BASIN PLAN including alternative bacterial quality indicators and modifications to recreational beneficial use designations. Preliminary recommendations for REGIONAL BOARD consideration will be complete by early 2008. Adoption of these regulations will directly affect the implementation of the TMDL.

G. Coordinating the TMDL Implementation Plan tasks with the work of the Storm Water Task Force will benefit the public by ensuring that beneficial uses of the Santa Ana River are protected appropriately and ensuring efficient use of government resources.

H. The TMDL identifies the FOREST SERVICE, the County of San Bernardino, the County of Riverside, the Cities of Ontario, Chino, Chino Hills, Montclair, Rancho Cucamonga, Upland, Rialto, Fontana, Norco, Riverside, Corona, Pomona and Claremont and agricultural operators, including confined animal and feeding operations ("CAFOs") as dischargers who must comply with the TMDL requirements (hereinafter "DISCHARGERS").

I. Both SB FLOOD CONTROL and RIVERSIDE FLOOD CONTROL serve as Principal Permittees for the National Pollutant Discharge Elimination System Municipal Separate Storm Sewer System Permits ("MS4 Permit") issued to their respective counties and cities within the Santa Ana Watershed by the REGIONAL BOARD. The San Bernardino County MS4 Permit (Board Order No. R8-2002-0012) and the Riverside County MS4 Permit (Board Order No. R8-2002-0011) are subject to revision based on studies and plans developed in compliance with the TMDL.

J. The COUNTY OF RIVERSIDE and CITIES OF RIVERSIDE, CORONA and NORCO are Co-Permittees to the Riverside County MS4 Permit. The County of San Bernardino and the Cities of Chino, Chino Hills, Fontana, Montclair, Ontario, Rancho Cucamonga, Rialto and Upland are Co-Permittees to the San Bernardino County MS4 Permit. The Cities of Claremont and Pomona are Co-Permittees to the Los Angeles County MS4 Permit (Board Order R4-2006-0074).

K. In the interest of ensuring that TMDL Implementation Plan compliance requirements are met, SB FLOOD CONTROL, as Principal Permittee for its respective NPDES MS4 Permit, and on behalf of its NPDES MS4 Permit Co-Permittees named individually and/or jointly in the TMDL under Resolution No. R8-2005-0001; and RIVERSIDE FLOOD CONTROL, the CITY OF RIVERSIDE, NORCO, CORONA, the COUNTY OF RIVERSIDE, SAWPA, REGIONAL BOARD and the FOREST SERVICE have hereby agreed to enter into a cooperative agreement to form a task force ("TMDL TASK FORCE") to coordinate certain tasks identified in the TMDL Implementation Plan with the work of the Storm Water Task Force.

L. The remaining DISCHARGERS identified in Recital H above which are not PARTIES to this Agreement may join this TMDL TASK FORCE at a later date. Pro Rata Cost shares for non-PARTY DISCHARGERS will be calculated as part of each Budget. Because those non-PARTY DISCHARGERS have not yet agreed to participate in the TMDL TASK FORCE, certain TMDL Implementation Plan requirements will not receive the full resources and funding contemplated by the REGIONAL BOARD at the time of the TMDL adoption.

M. The REGIONAL BOARD is appointed as a non-voting, non-funding PARTY of the TMDL TASK FORCE. As a non-voting, non-funding PARTY, the REGIONAL BOARD is authorized only to make recommendations upon the functioning of this TMDL TASK FORCE and the development of this program. The REGIONAL BOARD retains authority to regulate the TASK FORCE PARTIES to the extent that they are so authorized under state or federal law and do not relinquish any existing authority or responsibility as a result of participation in this Agreement.

N. In exchange for taking the lead in implementing the TMDL Implementation Plan through the TMDL TASK FORCE, the REGIONAL BOARD has agreed to work with TMDL TASK FORCE members to determine priorities and modified schedules necessary to accommodate the TMDL Implementation Task requirements within available and reasonable budgets and to ensure that TMDL Implementation Plan requirements are coordinated to the maximum extent practicable with the Storm Water Task Force work. The TMDL TASK FORCE and REGIONAL BOARD will take into consideration those DISCHARGERS that are PARTIES to this AGREEMENT in determining appropriate priorities and schedules for the TMDL TASK FORCE work.

O. SAWPA, with the support of SB COUNTY FLOOD and RIVERSIDE COUNTY FLOOD, has pursued and tentatively obtained a Proposition 40 IWMP Implementation Grant entitled "Middle Santa Ana River Pathogen TMDL – Implementation Grant" ("Prop 40 Grant"), to

evaluate sources of pathogen indicator bacteria in the Santa Ana Watershed and investigate Best Management Practices ("BMPs") to address those sources. It is the intent of the TMDL TASK FORCE to administer the Prop 40 Grant through this Agreement. The Prop 40 Grant is designed to address the requirements of Task 4.1 and portions of Task 3 of the Middle Santa Ana River TMDL Implementation Plan (see Exhibit "A").

P. The Angeles and San Bernardino National Forest is on National Forest System lands under the jurisdiction, custody and control of the FOREST SERVICE. The FOREST SERVICE is subject to limitations in its ability to comply with every provision of this Agreement. These limitations are based upon federal laws and regulations, including, but not limited to, the federal Clean Water Act, the federal Antideficiency Act, the principle of sovereign immunity and the holdings of the Supreme Court of the United States, and other binding federal court decisions, as they interpret those sources of federal law. The limitations include, but are not limited to, the availability of federal funding to pay for participation in the TMDL TASK FORCE, and the ability of FOREST SERVICE to participate directly in sampling, research or data gathering activities which are not located on or near National Forest System lands or a point source of water discharge arising on National Forest System lands, or other activities not specifically authorized by the Federal Clean Water Act section 313. By entering into this Agreement, FOREST SERVICE does not authorize any of the PARTIES to exercise regulatory authority over them. FOREST SERVICE agrees that State and Federal regulatory agencies that are or may become members of this TASK FORCE have regulatory authority over FOREST SERVICE only to the extent permitted by State or Federal Law.

Q. It is expected that revisions to the BASIN PLAN proposed by the Storm Water Task Force may result in new or modified Recreational Beneficial Uses and Water Quality Objectives for stream segments regulated by the TMDL, including Reach 3 of the Santa Ana River, Cucamonga Creek and Chino Creek. If attainment of Water Quality Objectives, and thereby Beneficial Uses in Reach 3 of the Santa Ana River, Cucamonga Creek, or Chino Creek is achieved as a result of the Storm Water Task Force effort, BMPs implemented by watershed stakeholders, or other conditions that result in attainment of such Beneficial Uses, the PARTIES to this Agreement shall evaluate the continued need to evaluate and monitor those waterbodies under this Agreement. Removal of waterbodies from such evaluation and monitoring may also release such PARTIES to this Agreement from future participation in the TMDL TASK FORCE if those participants are no longer tributary to remaining impaired waterbodies identified in the TMDL.

NOW, THEREFORE, the parties hereto mutually agree as follows:

SECTION I - Delegation of Responsibilities

A. Except for the FOREST SERVICE, the PARTIES shall:

1. Jointly participate in the TMDL TASK FORCE, providing technical guidance and input to TMDL TASK FORCE tasks.
2. Review and comment on draft and final draft deliverables and reports.
3. Provide the TMDL TASK FORCE Administrator with all information needed to satisfy the study and reporting requirements described in the TMDL Implementation Plan.
4. Provide the TMDL TASK FORCE Administrator with staff support and resources to assist in completing work of the TMDL TASK FORCE, as required and as agreed to by PARTIES.

B. FOREST SERVICE shall comply with Section I.A to the extent applicable under federal law. As described in Recital P, the FOREST SERVICE is an agency of the federal government, and may be unable to participate in each and every aspect of Section I.A to the same extent as other PARTIES

C. SAWPA shall:

Function as the TMDL TASK FORCE Administrator and shall:

1. Organize and facilitate TMDL TASK FORCE meetings,
2. Perform secretarial, clerical and administrative services, including providing meeting summaries to TMDL TASK FORCE members,
3. Manage TMDL TASK FORCE funds and prepare annual reports of TMDL TASK FORCE assets and expenditures,
4. Act as the contracting party, for the benefit of the TMDL TASK FORCE, for contracts with all consultants, contractors, vendors and other entities,
5. Seek funding grants to assist with achieving the work of the TMDL TASK FORCE and other goals and objectives of the TMDL TASK FORCE.
6. Coordinate with other agencies and organizations as necessary to facilitate TMDL TASK FORCE work.
7. Prepare quarterly and annual reports, as required by the TMDL Implementation Plan, and submit them as required by the TMDL Implementation Plan on behalf of the TMDL TASK FORCE.
8. Provide TMDL TASK FORCE members an opportunity to comment and approve any reports or other work product developed.
9. Coordinate and facilitate the addition of other DISCHARGERS to the TMDL TASK FORCE.

D. REGIONAL BOARD shall:

1. Function as an advisory member without financial obligation to the TMDL TASK FORCE which may seek REGIONAL BOARD advice, input and support.
2. Work with the TMDL TASK FORCE to determine appropriate priorities and schedules for TMDL Implementation Plan tasks based on available resources and TMDL Implementation Plan DISCHARGER participation.

SECTION II – Work of the TASK FORCE

A. The TMDL TASK FORCE shall retain consulting services and provide staff support as necessary to review scientific and other assumptions contained within the TMDL, implement the Prop 40 Grant, and perform other work as necessary to complete the tasks described below:

1. Investigate Long Term TMDL Implementation Structure, Cost Sharing Formula, and Funding Sources.
2. TMDL Implementation Task 3 – Develop, Implement and Report on a Watershed-Wide Bacterial Indicator Water Quality Monitoring Program.
3. TMDL Implementation Task 4 – Develop, Implement and Report on a Bacterial Indicator Urban Source Evaluation Plan.
4. Undertake such other plans, programs, and studies as authorized by the TMDL TASK FORCE.
5. Develop and approve an annual workplan and budget (hereinafter “BUDGET”) prior to December 31st of each year.

SECTION III – Budget

A. Each annual BUDGET shall be adopted by a majority vote of the TMDL TASK FORCE and ratified by a majority of the PARTIES prior to January 31st of each year during which this Agreement remains in force. Each such approved annual BUDGET shall take effect during the next fiscal year following the adoption of that BUDGET, commencing on July 1st of each year and continuing through June 30th of the following year.

B. Each annual BUDGET shall not exceed a total of Three Hundred Thousand Dollars (\$300,000.00), excluding the value of in-kind services and aggregate grant funding, unless a majority of the PARTIES vote to authorize an amount in excess of the \$300,000.00 cap for any one proposed annual BUDGET.

C. The TMDL TASK FORCE Administrator shall prepare and submit a written proposed annual BUDGET for the subsequent fiscal year to the TMDL TASK FORCE and thereafter to the PARTIES prior to November 30th. The proposed BUDGET prepared by the TMDL TASK FORCE Administrator shall include a line-item explanation of proposed expenditures and anticipated costs for the subsequent fiscal year, according to the scope of work developed by the TMDL TASK FORCE for that fiscal year.

D. The TMDL TASK FORCE Administrator shall prepare and submit pro rata cost share invoices to each PARTY based on the approved annual BUDGET and the methodology described in Section IV of the Agreement prior to the date of July 1 in the fiscal year which the BUDGET takes effect.

E. Each of the PARTIES shall pay a pro rata cost share of each annual budget, based on the TMDL TASK FORCE Administrator's pro rata cost share invoice, and which amount and any amount in arrears shall be due and payable to the TMDL TASK FORCE Administrator prior to the date of August 31st in the fiscal year for which it is due.

F. The BUDGET for the fiscal years 2006-2007, 2007-2008 and estimates for fiscal years 2008-2009 through 2009-2010 are attached hereto as Exhibit "A" and incorporated herein by this reference. Approval of this Agreement shall constitute approval of the BUDGET for fiscal year 2006-2007 and 2007-2008. Each of the PARTIES shall pay its pro-rata cost share of the BUDGET for fiscal year 2006-2007, as calculated in Section IV of this Agreement, prior to July 1, 2007, or within 30 days of its approval of this Agreement, whichever is sooner. Pro rata cost

shares for fiscal year 2006-2007, 2007-2008 and estimated pro rata cost shares for fiscal years 2008-2009 through 2009-2010 are attached hereto as Exhibit "A".

G. The TMDL TASK FORCE Administrator shall endeavor to minimize carry-over fund balances to those necessary to complete work of the TMDL TASK FORCE and shall limit contingencies to those necessary to ensure work of the TMDL TASK FORCE is not impeded. Excess not necessary to complete budgeted work of the TMDL TASK FORCE or maintain adequate reserves shall be credited back to the PARTIES in the BUDGET consistent with the pro rata cost share methodology described in Section IV below within 60 days after the accounting provided. The PARTIES shall agree to a reasonable reserve balance as part of each year's BUDGET.

H. After September 30 of each year, the TMDL TASK FORCE Administrator shall provide an accounting of all pro rata cost shares collected via cash or in-kind contributions collected per Section IV below. If pro rata cost shares collected are less than BUDGET, the TMDL TASK FORCE shall meet with Regional Board staff to determine appropriate priorities for scheduled TMDL TASK FORCE work and revise BUDGET based on available funds. The TMDL TASK FORCE and REGIONAL BOARD should take into account which DISCHARGERS are PARTIES to this AGREEMENT in determining appropriate priorities and schedules for the TMDL TASK FORCE.

Section IV – Pro Rata Cost Shares

The pro rata cost shares to fund the BUDGET shall be calculated as follows:

A. The FOREST SERVICE contribution to the TMDL TASK FORCE shall be limited to collecting monitoring data on National Forest System lands and contributing the analysis of that data to the TASK FORCE. The Angeles National Forest has the primary responsibility for collecting TMDL monitoring data within Icehouse Canyon. Participation in collecting TMDL monitoring data will depend on the available funding appropriated for the Angeles National Forest.

B. Riverside Flood Control shall make a one time contribution of \$131,820 during FY2006-2007 towards the Prop 40 Grant implementation and administration costs.

C. SB Flood Control shall make a one time contribution of \$118,180 during FY2006-2007 towards the Prop 40 Grant implementation and administration costs.

D. Additional TMDL TASK FORCE administrative costs beyond those associated with the Prop 40 Grant and the costs to develop plans and reports required under Tasks 3 and 4 (see Exhibit "A") shall be shared equally by the DISCHARGERS (excluding FOREST SERVICE).

E. Pro rata cost shares assigned to DISCHARGERS who are not PARTIES to this Agreement shall be considered unfunded portions of the BUDGET and be addressed per Section III.H of this Agreement.

F. In addition, in the event that the TMDL TASK FORCE requires the services of a consultant or consultants to prepare manuals, develop programs, or perform studies relevant to the TMDL TASK FORCE work, the costs of said consultant services will be shared by the PARTIES, in such a manner as approved by the PARTIES. Each PARTY may choose to provide in-kind services in lieu of cash payment, if acceptable to the PARTIES. The value of the in-kind services shall be determined by TMDL TASK FORCE Administrator based on the approved BUDGET.

SECTION V – Term of the Agreement

This Agreement shall become effective on the date the last PARTY of the TMDL TASK FORCE executes it. The term of the Agreement shall be for five (5) years unless terminated by a PARTY as provided in Section VII below. This Agreement may be renewed or extended for an additional term(s) in up to 5-year increments by written mutual consent of the PARTIES.

SECTION VI – Additional Parties

Any agency, entity or person recognized by the TMDL TASK FORCE as a DISCHARGER responsible for TMDL Implementation Plan Tasks 3 or 4 may be added as a PARTY to this Agreement by a written amendment signed by all of the current PARTIES.

SECTION VII – Withdrawal

A. Any PARTY may withdraw from the TASK FORCE effective 60 days after giving written notice to TASK FORCE Administrator. The withdrawing PARTY shall not be entitled to a refund of any unspent contribution that that PARTY made toward the current, future or preceding BUDGET. The withdrawing PARTY shall be responsible for all lawfully assessed penalties as a consequence of that PARTY's withdrawal from the TASK FORCE. The costs allocations to the remaining PARTIES will be recalculated in the following BUDGET year.

B. As a non-voting, non-funding PARTY of the TASK FORCE, the REGIONAL BOARD may withdraw from the TASK FORCE effective 30 days after giving written notice to the TASK FORCE Administrator. Notwithstanding withdrawal from the TASK FORCE, at all times, the REGIONAL BOARD retains authority to regulate TASK FORCE PARTIES only to the extent that they are so authorized under state and federal law and do not relinquish any existing authority or responsibility as a result of non-participation as a TASK FORCE PARTY under this Agreement.

B. Notwithstanding the foregoing, any PARTY may withdraw from the TMDL TASK FORCE upon 60 days written notice in the event that all waterbodies to which it is tributary are delisted from the Clean Water Act 303(d) List of Water Quality Limited Segments ("303(d) List") or otherwise removed from the Middle Santa Ana River Pathogen TMDL Implementation Plan requirements via Basin Plan Amendment. Upon providing such notice to the TMDL TASK FORCE Administrator, the PARTY or PARTIES shall no longer be responsible for paying a pro rata share of the BUDGET until and unless a waterbody or waterbodies to which it is tributary is added to the 303(d) List for impairment of Recreational Beneficial Uses via pathogen indicators. Within 60 days of receiving notice of the withdrawal pursuant to this sub-paragraph B, the TMDL TASK FORCE Administrator shall provide the withdrawing PARTY with an accounting of the funds allocated for evaluation or monitoring of the delisted or otherwise removed waterbody or waterbodies, which are no longer needed by reason of such delisting, and shall credit any unused excess to the withdrawing PARTY on a pro rata cost share basis.

SECTION VIII – Non-compliance with TMDL Requirements

Any PARTY found in non-compliance by the REGIONAL BOARD with conditions of the TMDL within its jurisdictional boundaries shall be solely liable for any enforcement actions and assessed penalties.

SECTION IX – Amendments to this Agreement

This AGREEMENT may be amended in writing signed by all of the PARTIES.

SECTION X – Authorized Signatories

Except for Agreements and documents authorized by the TMDL TASK FORCE to be signed by the TMDL TASK FORCE Administrator, the General Manager-Chief Engineer of the RIVERSIDE FLOOD CONTROL and the Flood Control Engineer of SB FLOOD CONTROL, the Chief Executive Officers of the COUNTY OF RIVERSIDE, and the City Managers of the CITIES OF CORONA, NORCO and RIVERSIDE are hereby authorized to execute all documents related to this TMDL TASK FORCE. The aforementioned authorized signatories may also designate in writing alternative representatives to sign such documents.

SECTION XI – Notices

All notices shall be deemed effective when personally delivered or five (5) days after deposit in the U.S. Mail, postage prepaid.

Any notices sent or required to be sent to any PARTY shall be mailed to the following addresses:

SAN BERNARDINO COUNTY
FLOOD CONTROL DISTRICT
825 East Third Street
San Bernardino, CA 92415

RIVERSIDE COUNTY FLOOD CONTROL
AND WATER CONSERVATION DISTRICT
1995 Market Street
Riverside, CA 92501

CITY OF CORONA
400 S. Vicentia Avenue
Corona, CA 92882

CITY OF NORCO
2870 Clark Avenue
Norco, CA 91760

CITY OF RIVERSIDE
3900 Main Street
Riverside, CA 92522

COUNTY OF RIVERSIDE
Executive Office
4080 Lemon Street, 4th Floor
Riverside, CA 92501

SANTA ANA REGION REGIONAL WATER QUALITY CONTROL BOARD
3737 Main Street, Suite 500
Riverside, CA 92501

UNITED STATES DEPARTMENT OF AGRICULTURE, FOREST SERVICE
San Bernardino National Forest
602 S. Tippecanoe Avenue
San Bernardino, CA 92408

Angeles National Forest
701 N. Santa Anita Avenue
Arcadia, CA 91006

SANTA ANA WATERSHED PROJECT AUTHORITY
11615 Sterling Avenue
Riverside, CA 92503

SECTION XII – Governing Law

This Agreement will be governed and construed in accordance with the laws of the State of California, except as to the FOREST SERVICE to whom federal law is applicable. If any provision or provisions of this agreement shall be held to be invalid, illegal, or unenforceable, the validity, legality and enforceability of the remaining provisions shall not in any way be affected or impaired hereby.

SECTION XIII – Consent to Waiver or Breach

No term or provision hereof shall be deemed waived and no breach excused, unless a waiver or breach is consented to in writing and signed by the other PARTIES. Consent by the PARTIES to a waiver or breach by any other PARTY shall not constitute consent to any different or subsequent waiver or breach.

SECTION XIV – Execution in Counterparts

This Agreement may be executed and delivered in any number of counterparts or copies ("counterpart") by the PARTIES hereto. When each PARTY has signed and delivered at least one counterpart to the other PARTIES hereto, each counterpart shall be deemed an original and, taken together, shall constitute one and the same Agreement, which shall be binding and effective as to the PARTIES hereto.

SECTION XV – Deliverables

All work, documents or things produced, including originals prepared by anyone in connection with, or pertaining to, the work under this Agreement shall become the property in whole and in part of all PARTIES, jointly and severally.

SECTION XVI – Indemnification

Each PARTY agrees to indemnify, defend, and hold harmless the remaining PARTIES, including their special districts, officials, agents, officers and employees from and against any and all liabilities, claims, expenses, damages, fines, penalties arising from any act or omission of the indemnifying PARTY, its officials, agents, officers, and employees, in connection with this Agreement, including but not limited to defense costs, legal fees, claims, actions, and causes of action for damages of any nature whatsoever, including but not limited to bodily injury, death, personal injury, or property damage; provided, however, that no PARTY shall indemnify another PARTY for that PARTY'S own negligence or willful misconduct. The FOREST SERVICE, as an agency of the federal government, is unable to indemnify, defend or hold harmless any other PARTY for any liability arising under this Agreement. The FOREST SERVICE expressly does not indemnify or hold harmless any PARTY for any injuries or liabilities, to itself, to any third party, or its employees under this agreement or any activities carried out under authority of this Agreement. The other PARTIES, based on a lack of reciprocity by the FOREST SERVICE, are unable to indemnify, defend or hold harmless the FOREST SERVICE for any liability arising under this Agreement. Tort liability for federal employees, including employees of the FOREST SERVICE, is expressly authorized and limited by the Federal Tort Claims Act, which will control liability of the FOREST SERVICE, and their employees under the terms of the agreement.

IN WITNESS WHEREOF, the parties hereto have executed this Agreement to be effective as of the day and year first above written.

SANTA ANA WATERSHED PROJECT AUTHORITY

BY _____

TITLE _____

DATE _____

SAN BERNARDINO COUNTY FLOOD CONTROL DISTRICT

RECOMMENDED FOR APPROVAL:

By _____

By _____

APPROVED AS TO FORM

ATTEST:

County Counsel

Clerk to the Board

By _____

By _____

Deputy County Counsel

Deputy

(SEAL)

RIVERSIDE COUNTY FLOOD CONTROL AND WATER CONSERVATION DISTRICT

RECOMMENDED FOR APPROVAL:

By _____
WARREN D. WILLIAMS
General Manager-Chief Engineer

By _____
MARION ASHLEY, Chairman
Riverside County Flood Control and Water
Conservation District Board of Supervisors

APPROVED AS TO FORM

JOE S. RANK
County Counsel

ATTEST:

NANCY ROMERO
Clerk to the Board

By _____
DAVID H.K. HUFF
Deputy County Counsel

By _____
Deputy

(SEAL)

COUNTY OF RIVERSIDE

RECOMMENDED FOR APPROVAL:

By _____
LARRY PARRISH
County Executive Officer

By _____
BOB BUSTER, Chairman
Riverside County Flood Control and Water
Conservation District Board of Supervisors

APPROVED AS TO FORM

JOE S. RANK
County Counsel

ATTEST:

NANCY ROMERO
Clerk to the Board

By _____
DAVID H.K. HUFF
Deputy County Counsel

By _____
Deputy

(SEAL)

CITY OF CORONA

BY _____
Mayor

DATE _____

APPROVED AS TO FORM

By _____
City Attorney

CITY OF RIVERSIDE

RECOMMENDED FOR APPROVAL:

BY _____

City Manager

DATE _____

APPROVED AS TO FORM _____ Attest

By _____ By _____

City Clerk

Deputy City Attorney

CITY OF NORCO

BY _____
Mayor

DATE _____

APPROVED AS TO FORM

By _____
City Attorney

**UNITED STATES DEPARTMENT OF AGRICULTURE
FOREST SERVICE (ANGELES AND SAN BERNARDINO
NATIONAL FORESTS)**

BY _____

TITLE _____

DATE _____

APPROVED AS TO FORM

By _____
Attorney